

## ***“Continuing the Progress”***

**Swearing-In Speech (Anaheim)**

**Anthony P. Capozzi, President**

**State Bar of California**

**September 6, 2003**

Chief Justice George, President Herman, my fellow members of the Board of Governors, members of the Conference, members of the judiciary, family, friends and honored guests:

Today gives me the opportunity to have a meaningful conversation with some of the most important people in our organization:

- from the leaders of our courts,
- to our past presidents,
- to our dedicated board of governors,
- to our activist members of the Conference,
- to our executive director and hard-working staff,
- and last, but certainly not least, to our rank-and-file members, young and old, from every part of the state and every type of practice – all of whom represent the heart-and-soul of the State Bar of California.

And while not one-on-one, I hope this initial conversation today will lead to more personal conversations with all of you at some point in the near future.

For that is what I see as the central element of this coming year:

- We listen to one another;
- We give each other's ideas a fair hearing;
- We consider all potential impacts, from fiscal, to function, to fairness, to efficiency;
- We reach agreement;
- And then we work together to bring about even more positive change for an organization that has come so far since its darkest days of the last decade.

In other words, we continue the great progress we made this last year under the leadership of a good friend and invaluable mentor, Jim Herman.

Thank you, Jim, for your unwavering devotion and dedication to the State Bar – and for a personal friendship I will always cherish.

You have unselfishly taken me around this great state, meeting with lawyers and bar associations in your undying

efforts to reach out to the members of the bar.

And we continue our increasingly close relationship with the courts and our cooperative efforts with the Judicial Council.

Thank you Chief Justice George for your ever-active interest in the State Bar – and especially for your tireless efforts to keep the doors to our courts open for all Californians.

And we continue reaching out to you – our members. When I ran for the Board of Governors from Fresno three years ago, I was a bar critic. Like a lot of lawyers out there, I thought our dues were too high, our money was most likely spent too easily and our discipline system was arbitrary, with punishments handed out many times for petty reasons.

Well, some things have changed in my three years on the board. For one, my eyes were opened!

After sitting in endless meetings on the Planning and Budget Committee and watching how every dollar in this organization is spent, you can be assured that our dues money is not thrown away. If you don't want to take my word for it, you can spend a "fun" afternoon reading the State Auditor's report.

The State Bar budget is lean and mean.

It says what it means and means what it says.

This board and its executive director have brought financial accountability to the State Bar. We have worked together to make the bar operate more effectively, more efficiently and more economically, and we should take some measure of pride in that.

Will we need to raise dues for 2005?

The honest answer at this point is – "We just don't know yet!"

It is no secret that, like all other agencies, the State Bar faces budget-crunching pressures. Sadly, this past summer we laid off a number of employees. We also made a series of other tough decisions to balance our budget for 2004.

Our dues have remained the same since 2000, and they currently stand at \$87 less than in the mid-1990s. This inevitably brings pressure to an organization whose primary mission is public protection, but your board – under the leadership of our Planning Committee Chair, Russ Roeca – will continue looking at all non-dues revenue possibilities to ease this burden.

Although times are so uncertain, I will make this pledge to you: Any effort to raise dues will be a last resort – and one that will only be taken with our members' input and recommendations and consultations with all parties involved.

This leads me to another important goal in the year ahead. We are going to continue our work to improve our relationship with the Legislature. With our own Sacramento insider – Wendie Scott – at the helm of our Stakeholders Committee, we are going to make every effort to work with lawmakers throughout the year on many different issues, not just on our dues bill.

And we are going to set out this year to enlist support and assistance from members of the legal community who are not active with the bar but who have contacts in Sacramento and can help us improve our relationship even more. This opening of doors to new faces and new ideas is just one of those many steps we are going to take to ensure access for all in our justice system.

I cannot say enough in tribute to the efforts of our Chief Justice – and our outgoing president Jim Herman – working hand in hand with judges and legislators and hundreds of others throughout the state in these past few difficult months – to ensure adequate court funding to keep the doors of our courts open.

We are not going to stop working on this issue just because there is a budget in place for the coming year. We are going to continue building on these efforts, working with the Chief Justice, the courts and the legislature on issues of funding, as well as with our own members in the encouragement with greater involvement in pro bono service.

The image and the reality of lawyers are quite far apart. The public mistrust of lawyers is ancient. Board of Governors member Joel Miliband wrote in a published article:

“Even Plato could not resist describing lawyers as ‘keen and shrewd’ but with ‘small and unrighteous’ souls who have no mature human soundness and wrongly think themselves masters of wisdom.”

William Shakespeare in Henry VI, Part 2, Act 4, Scene 2 wrote, “The first thing we do is kill all the lawyers.”

This phrase is used regularly by lawyer bashers, but in context these words are actually an exhortation to respect the importance of the lawyer and the rule of law! Shakespeare recognized that anarchy could only succeed in the absence of lawyers. Lawyers and judges are the key guardians of the fairness of the legal processes which govern us.

The public needs to be told that!

We need to bring an increased focus on the good work that lawyers do, unheralded, every day – making sure that the public knows that our members are out there helping them.

We are going to work hard to raise the awareness of the average citizen to the dedication of lawyers everywhere – we are going, if you will, to tell the “good-lawyer stories” – which in turn will improve the public’s perception of our profession and of attorneys’ service to the public good.

The lawyers who I believe do not get enough credit and whose story is seldom told are the legal services and pro bono attorneys.

In addition to all the other reasons that people don’t like lawyers, the pro bono attorneys add some by insisting that poor people have rights – rights that make the unpoor very uncomfortable.

The clients pro bono attorneys represent are not landlords; not finance companies; not the insurance companies. Their clients are not listed in Martindale-Hubbell. Before pro bono attorneys came along, we had a very simple landlord-tenant law – the landlord won – and there were fewer lawsuits crowding the court calendars.

Pro bono attorneys are spreading information on how to help migrant workers defend themselves against deportation or get minimum wage; making the Social Security Administration pay out hundreds of thousands of dollars to people who wouldn't even ask for their benefits, and certainly wouldn't sue for them.

Pro bono attorneys are the kind of lawyers who are willing to go into the arena – without fear of losing a battle – for they know in the end the feeling of high achievement, and if they fail – they at least fail while daring greatly, so that their place shall never be with those cold and timid souls who know neither victory nor defeat.

This is the kind of lawyer the public needs to know about!

We are also going to continue working hard at the State Bar to ensure the greatest efforts to get lawyers of all backgrounds involved in the bar process. With Vivian Kral guiding our Volunteer Involvement Committee, we pledge to you that our vital committees and entities continue to reflect the culturally rich diversity of our bar, and that our appointments process values inclusiveness – both in terms of ideas, as well as heritage.

It is important to note that 2004 is the 50<sup>th</sup> Anniversary of Brown v. The Board of Education. I will be appointing members of our board to plan how the State Bar will celebrate this momentous occasion.

As we tackle these important priorities, however, we will not lose sight of the State Bar's primary mission:

We are here to protect the public – to make sure that the few among us who do not respect the honesty and trust inherent in our profession do not harm the people who have, indeed, turned to us for help.

When I ran for the board three years ago, I was a critic of our discipline system. From a distance, I didn't think it was fair, nor did I think it was administered effectively.

As with many other things at the bar, that perception has changed.

I have come to have the highest respect for our discipline process. It is not petty; it is not arbitrary.

In fact, discipline is meted out in California in a firm and fair, efficient, effective and economic manner.

Earlier this year, the effectiveness of our discipline system was on display for all to see. In the glare of the media headlights, our Chief Trial Counsel, Michael Nisperos, and his highly professional staff pursued misguided attorneys in Southern California who were using our consumer protection laws to extort money from small business owners, many of whom operated minority-owned businesses.

In the face of overwhelming evidence collected by our enforcement staff, these attorneys were forced to resign, preventing even more costly discipline with years of adjudication through our professional State Bar Court.

Our discipline system does work, and in high-profile cases such as this one, it clearly can provide protections for both the accused and the public as it winds its way to a satisfactory conclusion under intense public scrutiny.

Does this mean that the discipline system no longer has any problems?

Absolutely not!

It means that we are doing a good job – and, as with many of the other initiatives we have talked about today – we have every intention of continuing to do a good job, but in this area of public protection we are always guided by one overriding principle:

We know that we can always do better!

And in this coming year, we will!

For starters, we will take yet another look at our discipline system and consider – under the leadership of our new discipline committee chair, our former California Attorney General, John Van de Kamp – the effective use of mediation.

We will ask: Can our system be more effective, more efficient, more economical, while yet ensuring the same protections so vital to our mission?

And the answer – without a doubt – will be yes.

With John's committee leading the way, we will work together – as we have worked together so many times in the past few years – to identify and implement the best means.

Let me tell you an interesting story, one that started the process of changing my mind about how the bar is operated.

When I ran for the board three years ago, I found a number of things I thought were wrong or too complicated with the election process. When I mentioned these to Judy Johnson – then our new executive director – she and Palmer Madden – then just sworn in as the new State Bar president – immediately asked me and board member Erica Yew, now Judge Yew, to head up a task force to look at the election process and recommend changes.

We did, and our reforms are now in place today.

So you see, early in our bar tenure, new board members started to make a difference. We did not find closed doors and resistant bureaucrats. We found an open door policy with an ear for productive suggestions.

In this coming year, I hope that our newest members of the board will also take this opportunity to effect positive change by working through the process.

I can assure you that with Matt Cavanaugh at the helm of our Membership Oversight Committee, fresh ideas will receive a fair hearing – and my hope is that every person on this board has the opportunity to help implement real change.

We cannot just find fault. We must find remedies!

Three years ago when I ran for the board of governors, I had two questions:

One: Can we make the State Bar relevant to the lawyers of California?

Two: What can we do to help the member who's practicing law every day and is concerned about his or her practice?

Quite frankly, I don't think my answer to that question has changed much. With our members, I believe we still have a long way to go.

So that is our mission in this coming year – to work with our outstanding elected lawyer members, and our dynamic public members on the board to make

this State Bar more relevant to the more than 192,000 members who sought out the privilege to belong to it.

One tenet I have come to hold clearly is that the unified bar should and must be preserved.

It will assure that the entire profession contributes to the inherent responsibility of all members of the bar to public protection, public service, competence, ethics, legal education and support of the justice system.

I am mindful of the importance of our history and the significant roles that the past presidents have played. These leaders have brought positive change to the bar and the legal profession as a whole. Simply said, they worked to make our legal community the strong force that it is today.

We must keep our past leaders connected to the bar, now and in the future. As a first step toward this endeavor, I would like to convene an inaugural meeting of the bar's past presidents to engage in a lively discussion on issues that are important to the future of our bar.

I must tell you that I will not be alone this next year. With me will be my closest advisor, best friend and supporter for the past 25 years, who I love very much, my wife, Paula; as well as my two wonderful children, my son, Nicco, who aspires to join us and become a lawyer, and my daughter, Julia, the champion equestrian in our family.

And my Mom, Lilia – You and Dad taught me the importance of hard work and perseverance which I have never forgotten. Without that upbringing, I would not be here today.

I love being a lawyer. I thank God for giving me the opportunity.

I am humbled and honored to serve as your president. I look forward to working with you to continue our progress of the past few years.

Thank you.